

Chapter 41. Storage and Disposal of Tangible Assets¹

Contents:

Subchapter A. Sales or Lease of County Real Property by Sealed Bids or Sealed Proposals 1

- 41.001. General Provisions 1
- 41.002. Appraisal or Alternative Information 2
- 41.003. Solicitation, Submission, and Opening of Bids or Proposals 3
- 41.004. Contents of a Request 3
- 41.005. Due Diligence and Liability 4
- 41.006. Contents, Submission, and Opening of Bids or Proposals 4
- 41.007. Evaluation and Award of Bids and Proposals 5
- 41.008. Miscellaneous 6
- [41.009 - 41.010 - Reserved for Expansion] 6

Subchapter B. Records Storage Policies 7

- 41.011. Records Management Review of Records Storage 7

Subchapter A. Sales or Lease of County Real Property by Sealed Bids or Sealed Proposals

41.001. General Provisions

- (a) Applicability. This chapter is adopted under section 263.007, Local Government Code, to provide the County with an optional process for the sale or lease of any County real property. The County may elect to sell, lease, exchange, or grant interests in County real property under any other statutory authority in lieu of this chapter and section 263.007, Local Government Code.
- (b) Administration
 - (1) For each individual sale or lease, the Commissioners Court shall approve a specific Request that is consistent with this chapter. The Request shall specify the format for Submittals; the place and deadline for filing Submittals; the date and time Submittals will be reported to the Commissioners Court; minimum acceptable bid amounts or other terms, conditions, or parameters; and the criteria by which the bid or proposal will be awarded.
 - (2) The Purchasing Agent shall administer the solicitation, submittal, and opening of Submittals based on the contents of the Request and this chapter. In coordination with the Evaluation Team, the Purchasing Agent may issue clarifications and interpretations regarding a Request.

¹ Chapter 41 was adopted by Travis County Commissioners Court on 12/12/1995, Item 5. Chapter name was changed to "Storage and Disposal of County Assets" on 12/12/1995, Item 5. Subchapter A was replaced November 3, 2015, Item 5.

Unless expressly authorized by the Commissioners Court, Respondents shall contact only the Purchasing Agent, and not the Evaluation Team or other County or personnel, regarding a pending Request.

- (3) The Evaluation Team will make recommendations on the ranking of Submittals and the award of a bid or proposal based on the contents of the Request and this chapter. The Commissioners Court may authorize the Evaluation Team to interview, negotiate proposals with, or otherwise interact Respondents.
- (4) In a Request, the Commissioners Court may waive any requirement of this chapter that is not mandated by section 263.007, Local Government Code.

(c) Definitions

- (1) Evaluation Team. One or more County staff, contractors, or agents that the Commissioners Court appoints to evaluate whether a Submittal complies with the Request and this chapter, to evaluate bids or proposals, to interact with Respondents as provided in the Request, and to make recommendations.
- (2) Request. A Request for Bids or a Request for Proposals, as appropriate.
- (3) Request for Bids, A process for soliciting offers to purchase or lease property from the County where the County's interests are best served by a simple, objective dollar-to-dollar comparison of different bids.
- (4) Request for Proposal. A process for soliciting offers to purchase or lease property from the County where the County's best interests include subjective or nonmonetary factors (e.g., compatibility of adjacent land uses; promotion of affordable housing, public transit, living wages, public engagement, or other public interests; qualifications of Respondents; etc.), include other factors best served by structured negotiations, necessitate a complex transaction, or are otherwise not best served by a simple, objective dollar-to-dollar comparison.
- (5) Submittal. A written response to a Request.
- (6) Respondent. A person who files a Submittal.

41.002. Appraisal or Alternative Information

- (a) Before notice of intent to sell property under this chapter is published, the County shall obtain an appraisal of the property's fair market value. Based on that appraisal, the Commissioners Court shall establish in the Request a minimum acceptable bid amount.

- (b) Before notice of intent to lease property is published, the County may obtain either an appraisal of the property's fair market lease value, an alternative economic analysis of the property's market potential, or another study of the property's value. Based on the appraisal or study, the Commissioners Court shall establish in the Request minimum acceptable terms or parameters, including factors such as acceptable target size of use or development, a desired range of increase in value or economic return, or other factors.

41.003 Solicitation, Submission, and Opening of Bids or Proposals

- (a) Upon the Commissioners Court's approval of a Request, the Purchasing Agent shall publish notice of the County's intent to sell or lease the property in a newspaper of general circulation in Travis County. If the property is in another county, the notice shall also be published in a newspaper of general circulation in that county.
- (b) The notice shall be published on at least two dates, with the date of the second publication occurring before the 14th day prior to the date of the lease award.
- (c) The notice shall include:
 - (1) a description of the property, including its location;
 - (2) any minimum acceptable bid amount or terms or parameters established under 42.002, above;
 - (3) a brief description of the process for the sale or lease, including the place and deadline for submittal and the date, the time Submittals will be opened, and the date and time Submittals will be publicly reported to the Commissioners Court; and
 - (4) how prospective Respondents may obtain the Request from the Purchasing Agent.
- (d) The Purchasing Agent shall provide any additional public notice directed by the Commissioners Court.

41.004 Contents of a Request

A Request may include, but is not limited to, the following.

- (1) A concept for a project or objectives that the County desires to achieve on the property.
- (2) A schedule for achieving milestones for delivering the project or objectives.
- (3) Compliance with minimum acceptable bid requirements or terms or parameters, including both financial factors based on an appraisal or economic study, and subjective or nonmonetary factors.

- (4) Respondents' qualifications and ability to achieve the project or objectives.
- (5) A requirement to use a particular form for any deed, purchase contract, lease or other document related to the sale or lease.
- (6) A requirement that the Respondent obtain a title commitment and state any objections to title encumbrances in the Response.
- (7) Imposition by the County of new title restrictions in any deed or other document related to a sale or lease.
- (8) An optional or mandatory pre-submission conference between County staff and prospective Respondents.
- (9) A requirement that Respondents posting a bond, a cash deposit, or earnest money that may be forfeited for cause.

41.005 Due Diligence and Liability

- (a) The County department responsible for the property will make it reasonably accessible to prospective Respondents for the purpose of performing inspections and other customary or necessary due diligence. Execution of a release shall be required.
- (b) The County will sell or lease the property with no warranties.
- (c) The Respondent who executes a sale or lease with the County shall:
 - (1) take title subject to any encumbrances existing prior to closing of the sale or lease; and
 - (2) be responsible for, and shall indemnify the County against, all liability arising from regulatory noncompliance, nuisance, tort, ad valorem taxation, or any other liability associated with the property.

41.006 Contents, Submission, and Opening of Bids or Proposals

- (a) Each Respondent shall file a written sealed Submittal by the deadline with its name on the outside with the Purchasing Agent, who shall stamp each submittal with the time and date received.
- (b) Respondents may neither change the content of nor withdraw a Submittal after filing it with the Purchasing Agent.
- (c) The Purchasing Agent shall, in coordination with the Evaluation Team, shall:
 - (1) open the Submittals in a public place and announce the identities of Respondents;
 - (2) review the Submittals for compliance with the Request and this chapter; and
 - (3) publicly report to the Commissioners Court the number of Submittals received, the identities of all Respondents, bid amounts, any Submittal

they believe does not comply with the Request and this chapter, and any other information of benefit to the Commissioners Court.

- (d) The Commissioners Court may reject Submittals that do not comply with the Request or this chapter. The Commissioners Court waive compliance for a Submittal if it does not materially prejudice other Respondents.
- (e) The County is not obligated to complete a sale or lease solicited under this chapter. The Commissioners Court may terminate a solicitation process at any time.
- (f) If reasonably necessary to preserve the County's interest in negotiating any future sale or lease of the property, the Purchasing Agent and the Evaluation Team may report other information to the Commissioners Court confidentially under the Public Information Act of the Open Meetings Act.
- (g) By filing a Submittal, each Respondent certifies that all information in the Submittal is current, complete, true, and accurate as of the date of filing. If changing circumstances after the date of filing result in the information in the Submittal no longer being current, complete, true, and accurate, the Respondent shall promptly inform the Purchasing Agent in writing.
- (h) By filing a Submittal, each Respondent certifies that no real estate broker fees will be expected of or paid by the County.

41.007 Evaluation and Award of Bids and Proposals

- (a) Sealed bids will be awarded to the person who submits the highest dollar bid in compliance with the terms of the Request and this chapter.
- (b) Sealed proposals will be awarded to the person submitting the proposal that offers the best overall value for the County in compliance with the terms of the Request and this chapter, which may include the following criteria.
 - (1) Respondents' detailed approach for timely achieving the project, including any community benefits included in the Request.
 - (2) Respondent's identification of additions or alternatives to the project as defined by the County that further serve the County's interests.
 - (3) Respondents' past experience and general qualifications and ability as a team or as key individuals to develop the project.
 - (4) Respondents' financial qualifications and support.
 - (5) Respondents' relevant experience and past performance on comparable projects.
 - (6) Any other factors relevant to the County's best interest.
- (c) The Evaluation Team shall review all Submittals based on the criteria in the Request and this chapter and, using the criteria in the Request, rank the Respondents based on whom the Evaluation Team believes can offer the best overall value to the County.

- (d) The Purchasing Agent, in coordination with the Evaluation Team, shall publicly present the Evaluation Team's rankings or recommendations to the Commissioners Court.
- (e) After receiving the Evaluation Team's rankings or recommendations, the Commissioners Court may direct the Evaluation Team to:
 - (1) enter into negotiations with the Respondent that the Commissioners Court finds can offer the best overall value for the County; or
 - (2) conduct interviews with and otherwise receive additional information from one or more Respondents to further refine and develop their proposals for the sale or lease before the Commissioners Court selects a preferred Respondent to negotiate a sale or lease with the Evaluation Team.

41.008 Miscellaneous

- (a) By filing a Submittal in response to a Request for Proposals, Respondents accept the evaluation process and acknowledges and accepts the County's determination of the best overall value for the County.
- (b) Submittals may become public information that the County may be required to disclose publicly by the Public Information Act, Chapter 552, Government Code (PIA). If the County receives a request to disclose information received from a Respondent, the County will notify the Respondent of the request. If the Respondent claims that the requested information is not subject to disclosure under the PIA, the County will reasonably cooperate with the Respondent to assert those claims, including requesting the Attorney General to rule on the status of the information.

[41.009 - 41.010 - Reserved for Expansion]

Subchapter B. Records Storage Policies²

41.011 Records Management Review of Records Storage

The Department of Records Management will review records requested by Departments for storage in County storage facilities. These records will be reviewed by Records Management for determination of retention times and indexing for quick reference and access.

² Subchapter B and Section 41.011 were added by amendment on 1/30/1996 (Item 9).